

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FRANK ORTIZ,

Plaintiff,

v.

DAVID KELLY, et al.,

Defendants.

3:05-cv-00113-LRH (VPC)

ORDER

Before this Court is Report and Recommendation of U.S. Magistrate Valerie P. Cooke (Doc. #95) entered on July 2, 2007, recommending granting in part and denying in part Defendants' Motion for Summary Judgment (Doc. #70) filed on November 30, 2006, and denying Plaintiff's Counter-Motion for Summary Judgment (Doc. #74) filed on December 13, 2006. Plaintiff filed his Objections to Magistrate Judge's Report and Recommendation (Doc. #96) on July 18, 2007, Defendants filed their Opposition to Plaintiff's Objections to Magistrate Judge's Report and Recommendation on August 3, 2007 (Doc. #101), and Plaintiff filed his Reply to Defendant's Opposition to Objections to Magistrate Judge's Report and Recommendation on August 10, 2007 (#105), pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 3-2 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections of the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record

1 pursuant to 28 U.S.C. § 636 (b) (1) and Local Rule IB 3-2. The Court determines that the Magistrate  
2 Judge's Report and Recommendation (Doc. #95) entered on July 2, 2007, should be adopted and  
3 accepted.

4 IT IS THEREFORE ORDERED that the Report and Recommendation of U.S. Magistrate  
5 Judge (Doc. #95) entered on July 2, 2007, is adopted and accepted, Plaintiff's Counter-Motion for  
6 Summary Judgment (#74) is DENIED, and Defendants' Motion for Summary Judgment (#70) is  
7 GRANTED IN PART as to:

8 (1) Count IX in its entirety;

9 (2) Counts I, IV, VI (as to grievances while in MHU) and VII (as to flooding of MHU  
10 cell) with respect to plaintiff's admittance and incarceration in the MHU between March and July 2003,  
11 as to all defendants;

12 (3) Counts I - VIII with respect to plaintiff's admittance and incarceration in the MHU  
13 between March and July 2003, as to defendants McDaniel, Endel and Neven.

14 IT IS FURTHER ORDERED that the parties shall have thirty (30) days from entry of this  
15 order within which to lodge with the court a proposed written joint pretrial order.

16 IT IS SO ORDERED.

17 DATED this 5th day of September, 2007.

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21 LARRY R. HICKS  
22 UNITED STATES DISTRICT JUDGE  
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